

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>7/18/2022</u> |
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MICHAEL SAWICKI,

Plaintiff,

-v-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.
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21-cv-2093 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

On March 21, 2022, counsel for defendant Commissioner of Social Security informed the Court that Plaintiff Michael Sawicki, who was proceeding without counsel, passed away on November 21, 2021. *See* Dkt. No. 13. Defense counsel also requested a *nunc pro tunc* extension of the Commissioner's time to file her motion for judgment on the pleadings, which was due in December 2021. *See id.*

On June 16, 2022, Plaintiff Michael Sawicki's wife Laurien Sawicki filed a notice of motion to substitute herself as the plaintiff following Mr. Sawicki's death. Dkt. No. 17. There has been no opposition to the motion filed. On July 8, 2022, the Court issued an order explaining that the motion does not provide any information from which the Court could conclude that Mrs. Sawicki is Mr. Sawicki's successor or representative and is thus a proper party to be substituted and ordering Mrs. Sawicki to supplement the motion with such evidence by August 5, 2022. On July 13, 2022, Mrs. Sawicki filed a copy of Letters of Administration granted by the Surrogate's Court of Putnam County, New York naming her as the fiduciary authorized to administer Mr. Sawicki's estate. Dkt. No. 19. This is sufficient for the Court to conclude that Mrs. Sawicki is a proper party. *See Saint-Jean v. Emigrant Mortg. Co.*, 2022 WL 843836, *2 (E.D.N.Y. Mar. 22, 2022) ("[T]he Administrator, as the person lawfully designated by state authority to represent the deceased's estate, is a proper party for substitution." (internal quotation marks and citation omitted)).

The motion to substitute Laurien Sawicki as plaintiff in place of Michael Sawicki is GRANTED, and the Clerk of Court is respectfully directed to update the caption to reflect this substitution.

It is hereby ORDERED that the parties must discuss whether they are willing to consent, under 28 U.S.C. § 636(c), to conducting all further proceedings before the assigned Magistrate Judge.

If both parties consent to proceed before the Magistrate Judge, counsel for the defendant must, by no later than August 8, 2022, file on the docket a Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form, the blank form for which is attached to this order (and also available at <https://www.nysd.uscourts.gov/forms/consent-proceed-us-magistrate-judge>). If the Court approves that form, all further proceedings will then be conducted before the assigned Magistrate Judge rather than before the undersigned. Any appeal would be taken directly to the United States Court of Appeals for the Second Circuit.

If either party does not consent to conducting all further proceedings before the assigned Magistrate Judge, Defendant's counsel shall file a letter by no later than August 8, 2022, advising the Court that the parties do not consent, but without disclosing the identity of the party or parties who do not consent. The parties are free to withhold consent without negative consequences.

It is further ORDERED that, by August 8, 2022, Plaintiff shall file a response to the Commissioner's request for a *nunc pro tunc* extension of time to file a motion for judgment on the pleadings.

SO ORDERED.

Dated: July 18, 2022
New York, New York

A handwritten signature in black ink, appearing to read 'L. Liman', is written over a horizontal line.

LEWIS J. LIMAN
United States District Judge